

LINDA LINGLE  
GOVERNOR  
STATE OF HAWAII



KAULANA H. R. PARK  
CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
ANITA S. WONG  
DEPUTY TO THE CHAIRMAN  
ROBERT J. HALL  
EXECUTIVE ASSISTANT

**STATE OF HAWAII**  
**DEPARTMENT OF HAWAIIAN HOME LANDS**

P.O. BOX 1879  
HONOLULU, HAWAII 96805

TESTIMONY OF KAULANA H. R. PARK, CHAIRMAN  
HAWAIIAN HOMES COMMISSION  
BEFORE THE HOUSE COMMITTEE ON HAWAIIAN AFFAIRS  
ON **HB 1971 RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**

January 27, 2010

Chair Carroll, Vice-Chair Shimabukuro and Members of the Committee:

The Hawaiian Homes Commission and Department of Hawaiian Home Lands support the intent of this legislation that would supplement our department's budget by approximately \$3.7 million for the development of agricultural and residential lots.

We support the intent of this legislation as it reflects two of the public land trust statutory purposes: the betterment of the conditions of native Hawaiians and the development of farm and home ownership on a widespread basis. We request that your committee consider language clarifying that this 5% derived from the public land trust is in addition to the 20% already allocated to the Office of Hawaiian Affairs.

Finally, we support the passage of HB 1971 provided that this proposal is not in conflict with the Administration's budgetary goals and objectives.

Thank you for the opportunity to provide comments on this measure.



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-FIFTH LEGISLATURE, 2010**

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**ON THE FOLLOWING MEASURE:**

H.B. No. 1971, RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS.

**BEFORE THE:**

House Committee on Hawaiian Affairs

**DATE:** Wednesday, January 27, 2010 **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Room 329

**TESTIFIER(S):** Mark J. Bennett, Attorney General, or  
Lisa Oshiro, Deputy Attorney General

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Chair Carroll and Members of the Committee:

The Attorney General takes no position as to whether a portion of the receipts from the lands commonly referred to as "ceded lands" should be spent by the Department of Hawaiian Home Lands to promote farm and home ownership. We testify only to urge that the following drafting deficiencies be corrected before further consideration is given to passing this bill.

First, amending section 26-17, Hawaii Revised Statutes, rather than the Hawaiian Homes Commission Act to assign an additional, substantive responsibility to the Department of Hawaiian Home Lands is inappropriate. Part I of chapter 26, Hawaii Revised Statutes, which includes section 26-17, describes the organization of the State's executive branch, generally. The functions and responsibilities of the Hawaiian Homes Commission and the Department of Hawaiian Home Lands (DHHL) are set out in the Hawaiian Homes Commission Act and, as required by the Admission Act, the act was made, and has been a part of the State Constitution since 1959. The additional responsibility this bill assigns to the DHHL, should be assigned by amending the Hawaiian Homes Commission Act, not section 26-17.

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Testimony of the Department of the Attorney General  
Twenty-Fifth Legislature, 2010  
Page 2 of 3

Second, relying on a percentage "of all funds derived from the public land trust" without identifying to which receipts from the public land trust the percentage is to be applied, or how the total receipts from the public land trust is to be computed, is not specific enough under the Hawaii Supreme Court's decision in OHA v. Yamasaki, 69 Haw. 154, 737 P.2d 446 (1988). In that case, the court held that a nearly similarly worded phrase to prescribe how much money the Office of Hawaiian Affairs was to spend to better the condition of native Hawaiians, see Haw. Rev. Stat. § 10-13.5 (1980), was not specific enough to be enforceable.

Third, the bill's references to sections 10-3 and 171-8, Hawaii Revised Statutes, are ambiguous. If the reference to section 10-3, Hawaii Revised Statutes, is included to particularize to what "all funds derived from" refers because what is intended is that five percent of what OHA receives from the public land trust to better the condition of native Hawaiians be spent by DHHL for the development of farm and home ownership, then the bill should be revised to say that directly without referring to either statute section. On the other hand, if the statute sections are included simply to describe what "the public land trust" is, then the references should be consolidated and inserted immediately after the reference to the "public land trust," e.g., "Five per cent of all funds derived from the public land trust described in sections 10-3(1) and 171-18 shall be expended . . . ."

Finally, even if this bill included a clear means for quantifying the amount of money DHHL is to spend for the development of farm and home ownership, nothing describes how DHHL is to get the money it is directed to spend for that purpose. The bill does not acknowledge that receipts from the

364305\_1.DOC

Testimony of the Department of the Attorney General  
Twenty-Fifth Legislature, 2010  
Page 3 of 3

use of public land trust lands are collected by more than a dozen state departments and agencies, or that OHA has received a share of those receipts after 2001 only because Executive Order No. 03-03 previously established and Act 178, Session Laws of Hawaii 2006, currently provides a process for transferring a portion of those receipts to OHA before the receipts are deposited into the general fund, or a special fund that has been established to hold them. To achieve its stated purpose, the bill must include a process for getting receipts from the public land trust to DHHL so the money can be spent to develop farm and home ownership.

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**WAIMEA HAWAIIAN HOMESTEADERS' ASSOCIATION, INC.**

P. O. Box 6753

Kamuela, Hawaii 96743

January 26, 2010

**M KANANI KAPUNIAI**  
*Pu'ukapu-Pastoral '90+*  
Director- **President**

**BETTY LAU**  
*Kuhio Village*  
Director - **Vice-President**

**MAXINE KAHAULELIO**  
*Puu Pulehu*  
Director - **Secretary**

**A HOPPY BROWN**  
*Puukapu Pastoral '90+*  
Director - **Treasurer**

*Kamoku/Nienie/Waikoloa*  
Director

*Pauahi*  
Director

**BERNARD ALANI, JR**  
*Puukapu-Farm >'85*  
Director

**ROBERT TERUKINA**  
*Kuhio Village*  
Director

**JOSEPH KEALOHA**  
*Pu'ukapu-Agricultural '85+*  
Director

**HENRY "SOLI" NIHEU"**  
*Pu'ukapu-Farm '85+*  
Director

**TIARE FLORES**  
*Pu'ukapu-Pastoral <90*  
Director

**TO:** Representative Mele Carroll, Chair  
Representative Maile S. L. Shimabukuro, Vice Chair  
**COMMITTEE ON HAWAIIAN AFFAIRS**

**FROM:** M Kapuniai, President

**RE:** **HB1971**  
**RELATING TO THE DEPARTMENT OF HAWAIIAN HOME LANDS**  
Provides that 5% of funds derived from the public land trust shall be expended by the department of Hawaiian home lands for development of farm and home ownership

Date/Time: Wednesday, January 27, 210 9:30 a.m.  
Place: Conference Room 329  
State Capital, 415 So. Beretania St.

We write to **SUPPORT** this bill.

This is a beginning.

The Department of Hawaiian Home Lands is the only state department in the Admissions Act which was identified, if not mandated, to be provided "sufficient funds" for implementation of its programs.

We appreciate the opportunity to participate in this process!

Phone: (808) 890-2311 (Res) 936-0157(Cell)  
Email: [duke@sandwichisles.net](mailto:duke@sandwichisles.net)

George Hook, Kupuna  
Na Kupuna Moku O Keawe  
PO Box 134  
Hawi, HI 96719

COMMITTEE ON HAWAIIAN AFFAIRS

HB 1971

Na Kupuna Moku O Keawe strongly supports HB 1971. HB 1971 provides the needed funds derived from the public land trust shall be expended by the department of Hawaiian home lands for development of farm and home ownership. There are still many of our people on the waiting list which is a travesty. It's about time the State of Hawaii fulfills its obligation to the Kanaka Maoli.

Pass this bill and get the Kanaka Maoli back on the land.

Mahalo nui loa,

George Hook, Kupuna

House of Representatives – 25<sup>th</sup> Legislature  
Regular Session of 2010

Committee: Hawaiian Affairs  
Chairperson: Honorable Mele Carroll  
Vice-Chair: Honorable Maile Shimabukuro  
Hearing: January 27, 2010

Re: Testimony in Support of H.B. 1971

Aloha Chairperson Carroll, Vice-Chair Shimabukuro and Honorable Board  
Members:

My name is Dexter K. Kaiama and I wish to submit my testimony in support of H.B. 1971 with a clarification and/or request for amendment to make clear that the 5% funding is in addition to 20% funding already allocated to the Office of Hawaiian Affairs.

The State of Hawai'i is alive, has thrived and currently survives, in part, because of its use of Crown and Government lands of the Kingdom of Hawai'i currently held in trust by the State.

That the host people, who also make up a significant portion of the general community, should receive the proposed additional funding is but a small compensation for the State's use of said lands.

Mahalo nui,

Dexter K. Kaiama  
700 Richards Street, Suite 805  
Honolulu, Hawai'i 96813  
Tel. No. (808) 545-2922

HOUSE OF REPRESENTATIVES  
COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Mele Carroll, Chair

Wednesday, January 27, 2010

9:30 a.m., Conf.Rm.329, State Capitol

Testimony Relating to HB 1971

**LATE TESTIMONY**

**LATE TESTIMONY**

**SUPPORT**

Madame Chair, distinguished Committee members and others:

I am Keoni Kealoha Agard, a Native Hawaiian, a concerned citizen, and also President of Hawaii Going Green, LLC, a non profit organization established to provide services to the elderly in the energy efficiency field and related areas. I testify today on behalf of said organization. We are testifying in support of HB 1971.

The Department of Hawaiian Home Lands "DHHL" has been strapped for decades with insufficient funds to properly carry out its mandate. There are over 20,000 applicants on the wait list that possess a desire to obtain a homestead lease on Hawaiian Home Lands "HHL". A huge barrier to making that a reality is the lack of funds that cripple the DHHL in providing for much needed housing and farms on HHL, thus reducing the number of individual of that massive applicant list. The lack of funds have precluded the DHHL from putting more Native Hawaiians on to the land. Many promises have been made but not kept in the past, as it relates to adequate funding to DHHL. However, this bill provides an opportunity to correct this problem

HB 1971 calls for a designation of 5% of all funds derived from the public land trust to be spent for the development of farm and home ownership on as widespread a basis as possible.



If this proposed bill passes, the additional funds will assist the DHHL in a big way to reach their mission of putting more Native Hawaiians on a homestead lease for utilization of farms and homes thereon.

We thank you for this opportunity to provide testimony before your committee.

*Kanani Kaaiawahia Bulawan*

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**TESTIMONY – SUPPORT HB 1971: RELATING TO DHHL**

**TO:** Rep. Mele Carroll, Chair, Rep. Maile Shimabukuro, Vice Chair, and Members,  
House Committee on Hawaiian Affairs

**HEARING:** Wednesday, January 27, 2010, 9:30 am; CR 329

Chair Carroll, Vice Chair Shimabukuro, and members of the committee:

Aloha Kaua, Mahalo piha for the opportunity to provide testimony on this bill. I'm Kanani Kaaiawahia Bulawan, a Kanaka Maoli and homeowner resident of Maili. I **SUPPORT** this bill which would provide 5% of all funds derived from the public land trust "Ceded Land" for the development of farming and homeownership programs.

**THIS SHOULD BE A NO BRAINER!** We are faced with the economic woes that continue to suppress and depress the Hawaiian community as well as perpetuate poverty and lack of housing for the native Hawaiians. This will assure that we can continue to have funding appropriated towards our ability to development farming and homeownership programs.

I commend the committee and chair for taking on such a **NO BRAINER** of a bill and give some form of comfort to our people by way of supporting self-sufficiency through farming and homeownership. Mahalo for giving me this time and for hearing my testimony.